

NOV 28 2018

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

JULIA C. DUDLEY, CLERK  
BY: *A. Beeson*  
DEPUTY CLERK

ROBERT ALLEN DUTTON,	)	
Petitioner,	)	Civil Action No. 7:17cv00258
	)	
v.	)	<u>ORDER</u>
	)	
UNKNOWN,	)	By: Michael F. Urbanski
Respondent.	)	Chief United States District Judge

This matter is before the court on pro se petitioner Robert Allen Dutton's fifth and sixth motions for reconsideration of the order entered on August 1, 2017, dismissing his petition for a writ of habeas corpus as untimely. Dutton notes his dissatisfaction with the dismissal and the denials of his various subsequent motions, and attempts to re-argue claims raised in his original petition. "[B]efore a party may seek relief under Rule 60(b), a party must first show 'timeliness, a meritorious defense, a lack of unfair prejudice to the opposing party, and exceptional circumstances.'" Dowell v. State Farm Fire & Cas. Auto. Ins. Co., 993 F.2d 46, 48 (4th Cir. 1993) (quoting Werner v. Carbo, 731 F.2d 204, 207 (4th Cir. 1984)). Dutton fails to make this showing, and a motion for reconsideration that "is nothing more than a request that the district court change its mind" is not authorized. United States v. Williams, 674 F.2d 310, 313 (4th Cir. 1982). Moreover, Dutton did not appeal the dismissal order, and the "voluntary, deliberate, free [and] untrammelled choice not to appeal the original judgment or order cannot establish a basis for Rule 60 relief." Aikens v. Ingram, 652 F.3d 496, 501 (4th Cir. 2011) (internal quotation marks omitted). Finally, Dutton fails to establish a valid basis for the undersigned's recusal. See, e.g., Belue v. Leventhal, 640 F.3d 567, 572-74 (4th Cir. 2011) (discussing requirements for judicial recusal). Accordingly, it is hereby **ORDERED** that Dutton's fifth and sixth motions for reconsideration (ECF Nos. 18 and 19) are **DENIED**.

ENTER: This 27 day of November, 2018.

*/s/ Michael F. Urbanski*  
Chief United States District Judge